

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 03-cr-235-02-SM

Roberto Diaz

**O R D E R**

On November 2, 2005, defendant appeared for a "probable cause" hearing under Fed. R. Crim. P. 32.1 on numerous alleged violations of conditions of supervision. Defendant stipulated to probable cause on the violations. I therefore find probable cause to hold him for a revocation hearing.

Defendant sought bail conditions under Rule 32.1(a)(6). Under Rule 32.1(a)(6) defendant bears the burden of establishing by clear and convincing evidence that he will not flee and that he poses no danger to any other person or to the community. Given the nature of the violations, his history with drugs, and his positive test for marijuana and cocaine use, he is a danger to the community. There are no conditions which are likely to assure his presence and the safety of the community.

Accordingly, it is **ORDERED** that the defendant be detained pending trial.

The defendant is committed to the custody of the Attorney

General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: November 3, 2005

cc: Mark E. Howard, AUSA  
Bjorn Lange, Esq.  
U.S. Marshal  
U.S. Probation